



Attorney Docket No. OHS-299/DIV
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Group Art Unit: 1774
)
TANAKA; OKADA) Examiner: Pamela R. Schwartz
)
Serial No. 10/608,262)
)
Filed: June 30, 2003)

For: **DYE FIXING AGENT FOR WATER-COLOR INK, IN JET
RECORDING MEDIUM AND POROUS HYDROTALCITE
COMPOUND**

TRANSMITTAL LETTER

Commissioner for Patents
Alexandria, Virginia 22313-1450

Sir:


Submitted herewith for filing in the U.S. Patent and Trademark Office is the following:

- (1) Filing Receipt;
- (2) Transmittal Letter;
- (3) Response to Restriction/Election Requirement; and
- (4) Associate Power of Attorney.

Please charge any additional fees, or credit any overpayment, in connection with this matter to deposit Account No. 19-1980.

Respectfully submitted,

SHERMAN AND SHALLOWAY


Attorney for Applicants
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For: **DYE FIXING AGENT FOR WATER-COLOR INK, IN JET RECORDING
MEDIUM AND POROUS HYDROTALICTE COMPOUND**

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

Commissioner for Patents
Alexandria, Virginia 22313-1450

Sir:

This is in response to the Official Action bearing a mail date of March 29, 2004. A one-month shortened statutory period for response is set to expire on April 29, 2004. Accordingly, this response is timely filed.

SUMMARY OF RESTRICTION/ELECTION REQUIREMENT

The restriction/election requirement states as follows:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 19-25, drawn to compounds, classified in class 47, subclass 9.

II. Claims 26-40, drawn to articles, classified in class 428, subclass 32.1.

Inventions of Group I and of Group II are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP §806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP §806.04(h)). In the instant case, the intermediate product is deemed to be useful as a filler material or fire retardant and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

PROVISIONAL ELECTION

Applicants provisionally elect with traverse claims 19-25,

drawn as a Group I to compounds and a species A (silicic acid anion and a sulfuric acid anion) as stated in the Restriction Requirement.

TRAVERSAL

Applicants respectfully traverse the Examiner's Restriction Requirement as to Groups I-II. The touchstone for requiring restriction is determining whether two or more independent and distinct inventions are claimed within the same application. MPEP §806. Restriction should never be required where the claims of an application define the same essential characteristics of a single disclosed embodiment of the invention. MPEP §806.03.

In the event the restriction is not overcome, Applicants preserve the right to pursue the subject matter of the unelected claims in later applications.

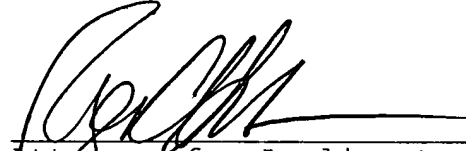
CONCLUSION

In view of the foregoing, Applicants respectfully request the Examiner to reconsider and withdraw the restriction requirement and to examine all of the claims pending in this application. If the

Examiner has any questions or wishes to discuss this matter, the Examiner is welcomed to telephone the undersigned attorney.

Respectfully submitted,

SHERMAN AND SHALLOWAY

A handwritten signature in black ink, appearing to read 'R. C. Hahn', is written over a horizontal line.

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